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| EXAMINER |
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STRIMBU, GREGORY J

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| ART UNIT | PAPER NUMBER |
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3634

DATE MAILED: 12/13/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/326,308

Applicant(s)

CHU, YI-HWA

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 25 June 2001 and 24 September 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-27 and 36-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-27 and 36-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 25 June 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on July 9, 1998. Even though the file does not contain a certified copy of the French application No. 9,808,842, the applicant is not required to submit a certified copy since the applicant has submitted evidence that a certified copy was submitted and the foreign priority date is not at issue at this time. It should be noted, however, that if the foreign priority date becomes an issue, the applicant will be required to at least submit a photo copy of French application No. 9,808,842.

Election/Restrictions

Since the applicant has canceled claims 28-35, the restriction requirement set forth in the previous Office action is no longer valid and is hereby withdrawn.

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 8, 2000 and June 25, 2001 have been approved.

Specification

The disclosure is objected to because the applicant should avoid referring to the same element of the invention with different language. For example, the applicant should avoid referring to element 1 as "rail" on line 21 of page 3 and "flange" on line 11 of page 4.

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Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "a first end . . . one of the cable ends" on lines 4-5 of claim 20; "the hood sidewall includes . . . drum body, respectively" on lines 1-5 of claim 21; "a hood having a sidewall . . . the opening in the flange" on lines 6-10 of claim 36.

Claim Rejections - 35 USC § 112

Claims 20-27 and 36-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Recitations such as "a second end of the cable" on line 9 of claim 20 render the claims indefinite because it is unclear if the applicant is referring to one of the ends set forth above or is attempting to set forth another cable end in addition to the ones set forth above. Recitations such as "being received through . . . in the flange" on line 10 of claim 20 render the claims indefinite because it is unclear how the second end of the cable is always in the arcuate passage. Recitations such as "the second axially extending portion" on lines 4-5 of claim 21 render the claims indefinite because they lack antecedent basis. Recitations such as "respectively" on line 5 of claim 21 render the claims indefinite because it is unclear what elements are respective to one another. Recitations such as "a sidewall on opposite sides of the ramp" on lines 1-2 of claim 24 render the claims indefinite because it is unclear how one sidewall can be on opposite sides of the ramp. Recitations such as "a passage portion" on line 7 of claim 36 render the claims indefinite because it is unclear if the passage portion is part of the sidewall or in addition to the sidewall.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 20-25, 36-38 and 41-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4-6, 8 and 13 of U.S. Patent No. 6,253,491 in view of Sessa '060. Claims 4-6, 8 and 13 recite the applicant's claimed invention but for the flange extending radially outward further than the grooves.

However, Sessa '060 discloses a device for raising and lowering a vehicle window comprising a drum having grooves and a flange that extends radially outward further than the grooves, the flange including a ramp (not numbered, but seen in figure 2) that is at an angle of approximately 45 degrees with respect to the axis of the drum and projections 30 with cooperate with a brake box 36.

It would have been obvious to one of ordinary skill in the art to provide claims 4-6, 8 and 13 of U.S. Patent No. 6,253,491 with a flange and brake box, as taught by

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Sessa '060, to increase the stability of the drum as it rotates and to prevent the drum from rotating when the vehicle window is at least partially rolled up.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Hess. Hess discloses a vehicle window raiser assembly, comprising a cable (not shown), a winding drum 4 having a body portion (not numbered, but seen in figure 1b) that has a plurality of grooves 40 that support a portion of the cable for winding the cable, the drum having a radially extending flange (not numbered, but seen in figure 1b) at one end of the body portion, the flange including an opening 42 and a hood 6 having a sidewall (not numbered, but seen in figure 1b) extending along a portion of the length of the drum

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body at a first radial dimension and a passage portion (not numbered, but seen in figure 1b) having a second, larger radial dimension, the passage portion and the drum flange cooperating to form a tunnel (not numbered, but seen in figure 1b) that guides and supports an end of the cable prior to the end being inserted into the opening in the flange, projections 62 extend from the drum flange in an axial direction which cooperate with projections 60 of the brake box.

Claim 36 is rejected under 35 U.S.C. 102(e) as being anticipated by Pages. Pages discloses a vehicle window raiser assembly, comprising a cable 3, a winding drum 1 having a body portion (not numbered, but seen in figure 4) that has a plurality of grooves 2 that support a portion of the cable for winding the cable, the drum having a radially extending flange (not numbered, but seen in figure 4) at one end of the body portion, the flange including an opening 21 and a hood 12 having a sidewall (not numbered, but seen in figure 4) extending along a portion of the length of the drum body at a first radial dimension and a passage portion (not numbered, but seen in figure 4) having a second, larger radial dimension, the passage portion and the drum flange cooperating to form a tunnel 16 that guides and supports an end 19 of the cable prior to the end being inserted into the opening in the flange.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-25, 36-38 and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sessa '060 in view of Pages. Sessa '060 discloses a vehicle window raiser assembly, comprising a cable 11, a winding drum 10 having a body portion (not numbered, but seen in figure 1) that has a plurality of grooves (not numbered, but seen in figure 1) that support a portion of the cable for winding the cable, the drum having a radially extending flange 13 at one end of the body portion, the flange including an opening 12. Projections 30 extend from the drum flange 13 in an axial direction and a brake box 36 having projections 26 that cooperate with the flange projections such that rotation of the brake box projections causes rotation of the drum. As seen in figure 7, the opening the flange extends into one of the drum flange projections Sessa '060 is silent concerning a hood.

However, Pages discloses a vehicle window raiser assembly, comprising a hood 12 having a sidewall (not numbered, but seen in figure 4) extending along a portion of the length of the drum body at a first radial dimension and a passage portion (not numbered, but seen in figure 4) having a second, larger radial dimension, the passage portion and the drum flange cooperating to form a tunnel 16 that guides and supports an end 19 of the cable prior to the end being inserted into an opening 21 in the flange.

It would have been obvious to one of ordinary skill in the art to provide Sessa '060 with a hood, as taught by Pages, to prevent contaminants from getting into the winding drum.

Allowable Subject Matter

Claims 26, 27, 39 and 40 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for indicating allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach the opening in the flange extending into one of the drum flange projections. See claims 26 and 39, lines 1-2.

Response to Arguments

Applicant's arguments filed June 25, 2001 have been fully considered but they are not persuasive. As illustrated in the rejection above, Pages discloses a flange portion on a drum that cooperates with a hood to provide a passage for inserting an end of a winding cable.

Conclusion

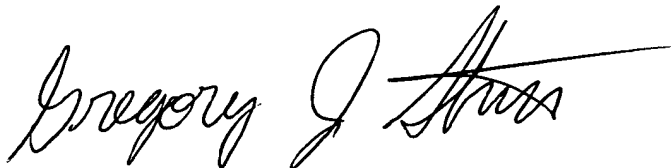
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The applicant has presented new claims 20-27 and 36-43 which necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE**

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FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is (703) 305-3979. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 4:30 P.M. The fax phone number for this Group is (703) 305-3597. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink, appearing to read 'Gregory J. Strimbu', with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
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